

## RULEMAKING NOTICE FORM

Notice Number	<u>2017-57</u>	Rule Number	<u>He-C 6914</u>
1. Agency Name & Address: <b>Dept. of Health &amp; Human Services Division of Children, Youth &amp; Families Child Development Bureau 129 Pleasant Street Concord, NH 03301</b>	2. RSA Authority: <u>RSA 170-E:11, I</u>	3. Federal Authority: <u>45 CFR 98</u>	
	4. Type of Action:		
	Adoption	<u>X</u>	
	Amendment	<u>          </u>	
	Repeal	<u>          </u>	
	Readoption	<u>          </u>	
	Readoption w/amendment	<u>          </u>	
5. Short Title: <b>Child Care Provider Enrollment Requirements</b>			

6. (a) Summary of what the rule says and of any proposed amendments:

**The Department of Health and Human Services (Department) is proposing to adopt He-C 6914 “Child Care Provider Enrollment Requirements.” The proposed rule consolidates definitions and requirements for enrollment currently found in the existing rules He-C 6910 “Employment Related Child Care” and He-C 6349 “Certification Payment Standards for Licensed and License Exempt Child Care Service Providers” which expired on 3/17/17. He-C 6910 is essentially being readopted with amendments in a separate, concurrent rulemaking proceeding. The proposed rule He-C 6914 specifies requirements for licensed and license-exempt child care providers seeking to be enrolled to provide employment related child care or preventive or protective child care in the child care scholarship program.**

**The proposed He-C 6914 adds definitions for “N-forms” and “serious injury” and incorporates by reference the forms used for enrollment under the rule.**

**The proposed He-C 6914 describes programmatic changes from the existing He-C 6910 and the expired He-C 6349 including:**

- Increasing the age requirement for license-exempt child care providers from 16 to 18 years of age;**
- Adding a new requirement for providers to report any serious injury or death in the child care setting;**
- Adding mandatory compliance with child abuse and neglect reporting requirements;**
- Changing the requirement for fingerprinting for all child care providers enrolled in child care scholarship to every 5 years rather than once at initial enrollment;**
- Adding a minimum training requirement of 6 hours for license-exempt child care providers prior to enrollment in 11 health and safety topics;**
- Adding a requirement for license-exempt providers of additional hours of professional development training in topics to be implemented as of 9/30/17;**
- Requiring infant and child cardiopulmonary resuscitation (CPR) and infant and child first aid certifications and the maintenance training for licensed and license-exempt providers; and**
- Requiring license-exempt providers to create an account in the child care registry and upload all training verifications into the registry.**

6. (b) Brief description of the groups affected: The proposed rule affects those seeking to be enrolled as a provider of child care scholarship child care.

**The proposed rule affects those seeking to be enrolled as a provider of child care scholarship child care.**

6. (c) Specific section or sections of state statute or federal statute or regulation which the rule is intended to implement:

<u>RULE</u>	<u>STATUTE TO BE IMPLEMENTED</u>
He-C 6314.01	RSA 161:2, XII; RSA 170-E:11; RSA 170-G:4, XVIII; and RSA 170-G:5
He-C 6314.02	RSA 161:2, XII; RSA 167:83, II(o); RSA 170-E:11; RSA 170-G:4, XVIII; and RSA 170-G:5
He-C 6314.03	RSA 161:2, XII; RSA 167:58, IV; RSA 170-G:4, XVIII; RSA 170-G:5
He-C 6314.04	RSA 161:2, XII ; RSA 167:83, II(o); RSA 170-E:3-a; RSA 170-E:4, II; RSA 170-E:7; RSA 170-E:11; RSA 170-E:12; RSA 170-G:4, XVIII; RSA 170-G:5
He-C 6314.05	RSA 161:2, XII ; RSA 167:83, II(o); RSA 170-E:3-a; RSA 170-E:4, II; RSA 170-E:7; RSA 170-E:11; RSA 170-E:12; RSA 170-G:4, XVIII; RSA 170-G:5
He-C 6314.06	RSA 170-E:11; RSA 170-G:4, XVIII; and RSA 170-G:5
He-C 6314.07	RSA 161:2, XV; RSA 167:17-b, I(a); RSA 167:17-c; RSA 167:58, IV; RSA 167:61-a, I(a)-(c) and (e); RSA 167:83, II(k); RSA 170-E:7; RSA 170-E:11; RSA 170-E:12; RSA 170-G:4, XVIII; and RSA 170-G:5
He-C 6314.08	RSA 167:83, II(a); RSA 170-E:11; RSA 170-G:4, VIII; RSA 170-G:4, XVIII; RSA 170-G:5; and RSA 541-A:31, I and II
He-C 6314.09	RSA 167:83, II(a)

7. Contact person for copies and questions including requests to accommodate persons with disabilities:

Name:	<b>Catherine Bernhard</b>	Title:	<b>Rules Coordinator</b>
Address:	<b>Dept. of Health and Human Services Administrative Rules Unit 129 Pleasant St. Concord, NH 03301</b>	Phone #:	<b>271-9374</b>
		Fax#:	<b>271-5590</b>
		E-mail:	<a href="mailto:catherine.bernhard@dhhs.nh.gov">catherine.bernhard@dhhs.nh.gov</a>

TTY/TDD Access: Relay NH 1-800-735-2964 or dial 711 (in NH)

**The proposed rules may be viewed and downloaded at:**

<http://www.dhhs.nh.gov/oos/aru/comment.htm>

8. Deadline for submission of materials in writing or, if practicable for the agency, in the electronic format specified: **Thursday, June 1, 2017**

☒ Fax

☒ E-mail

☐ Other format (specify):

9. Public hearing scheduled for:

Date and Time: **Thursday May 25, 2017 at 2:00 p.m.**

Place: [DHHS Brown Bldg., Auditorium, 129 Pleasant St., Concord, NH](#)

10. Fiscal Impact Statement (Prepared by Legislative Budget Assistant)

FIS # 17:047 , dated 05/1/17

**1. Comparison of the costs of the proposed rule(s) to the existing rule(s):**

He-C 6914 is a new rule but includes sections taken from He-C 6910 and He-C 6349. When compared to the existing rules He-C 6910 and the expired rule He-C 6349, the proposed rule will increase state general fund expenditures and have an indeterminable impact on independently-owned businesses.

**2. Cite the Federal mandate. Identify the impact on state funds:**

The requirements change the age of a provider from 16 to 18, as well as the requirement for health and safety training, infant CPR and first aid, and on-going professional development for licensed and license-exempt child care providers are changes required by federal reauthorization requirements pursuant to 45 CFR 98, Child Care and Development Fund. These costs are indeterminable, and are attributable to the federal mandate and not the rule.

**3. Cost and benefits of the proposed rule(s):**

**A. To State general or State special funds:**

The Department states that administrative costs associated with the rule are included in the governor's recommended budget for FY 2018/19, and total \$382,202 in FY 18 and \$391,713 in FY 19. The costs to provide the required training and the state share of costs to process the increase in fingerprint checks will be paid for with 100 percent federal funds.

**B. To State citizens and political subdivisions:**

There is a potential cost to providers and their staff who are required to obtain infant and child CPR and first aid certifications. There may be a cost to providers for ongoing health and safety training and professional development. There is also a cost to providers for the provider share of the costs to obtain a fingerprint check every five years. These costs are indeterminable, but could potentially be passed on by the provider through rate increases to the families utilizing child care. No impact on political subdivisions.

**C. To independently owned businesses:**

There are potential costs to license-exempt child care providers relative to the cost of CPR and first aid certifications, as well as maintaining records and reporting on the status of professional development.

11. Statement Relative to Part I, Article 28-a of the N.H. Constitution

**The proposed rule modifies an existing program or responsibility but does not mandate any fees, duties or expenditures on the political subdivisions of the state, and therefore does not violate Part I, Article 28-a of the N.H. Constitution.**

**Adopt He-C 6914, cited and to read as follows:**

**PART He-C 6914 CHILD CARE PROVIDER ENROLLMENT REQUIREMENTS**

He-C 6914.01 Purpose. The purpose of this part is to identify the requirements to become a child care provider of license and license-exempt child care services for the department of health and human services (DHHS).

He-C 6914.02 Scope. This part shall apply to license and license-exempt child care providers who receive financial reimbursement from the department of health and human services (DHHS) for those families utilizing employment related, preventive or protective child care services.

He-C 6914.03 Definitions.

(a) “Agency” means the board of directors, executive director, and employees of an organization that is incorporated and recognized by the NH secretary of state.

(b) “Caretaker relative” means a relative who is not the biological parent of the child(ren), but is providing care and supervision of the child(ren) in the assistance group.

(c) “Case plan” means the division for children, youth and families (DCYF) written plan for the child and the family, which outlines how services will be provided pursuant to RSA 170-G:4, III and 42 U.S.C. 671, Part E-federal payments for foster care and adoption assistance 42 U.S.C. 671(a)(16) and 42 U.S.C. 675(5)(a)-(d) state plan for foster care and adoption assistance.

(d) “Child care” means the act of providing supervision, food, activity, and rest for a child for any portion of a 24-hour day, in order to promote healthy child development and assist the child’s parent(s), in preparing for, securing, or maintaining employment or employment related education or training, for an approved activity that supports service or case plan goals.

(e) “Child care scholarship” means payment to a child care provider on behalf of a family who meets the eligibility criteria of He-C 6910 or He-C 6912.

(f) “Commissioner” means the commissioner of the New Hampshire department of health and human services or designee.

(g) “Department (DHHS)” means the department of health and human services of the state of New Hampshire.

(h) “Division for children, youth and families (DCYF)” means the organizational unit of the department of health and human services that provides services to children and youth and families referred by courts pursuant to RSA 169-B, RSA 169-C, RSA 169-D, RSA 170-B, RSA 170-C and RSA 463.

(i) “Employment related activities” means participation in an approved activity that is designed to assist parent(s) to enter, re-enter, or remain in the workforce as described in He-C 6910.07(e).

(j) “Enrolled child care provider” means a child care provider who has met the requirements found in He-C 6914 and is authorized to receive payment for services from DHHS. The term includes the definition of “registered provider” pursuant to RSA 170-E:6-a.

(k) “Family” means a child(ren) and an adult(s) who reside in the same household and who have a birth, foster, step, adoptive, legal guardianship, or caretaker relative relationship.

(l) “Foster parent” means an individual who has a license or permit for foster family care pursuant to He-C 6446.

(m) “Founded” means a report of abuse or neglect where the department has determined that there is a preponderance of the evidence to believe that a child has been abused or neglected.

(n) “Fraud” means “fraud” as defined in RSA 167:58, IV.

(o) “Legal guardian” means an individual who is given legal authority by a court and charged with the duty to provide care, custody, and supervision of the child(ren).

(p) “Licensed” means a child care provider who has been issued a license to operate by the commissioner of DHHS, in accordance with RSA 170-E or has been issued a license to legally operate as a child care provider in accordance with the licensing requirements of a state neighboring New Hampshire.

(q) “License-exempt” means a child care provider who is not required to be licensed, in accordance with RSA 170-E:3, I (a), (b), (c), (f), (g), and (h), or is not required to be licensed but can legally operate as a child care provider in accordance with the regulations of a state neighboring New Hampshire.

(r) “N-form” means the electronic web-based platform utilized by the State of New Hampshire for business owners to complete and submit applications for provider enrollment and certification.

(s) “NH Bridges” means the automated case management, information, tracking, and reimbursement system used by the division for children, youth and families.

(t) “Notification” means a written or printed document that advises:

(1) Families of:

a. The results of eligibility determinations; and

b. Other changes in child care scholarship; or

(2) Providers of:

- a. Changes to a family's child care scholarship, as applicable;
- b. The maintenance of the child care provider's enrollment status; and
- c. Other information related to the child care provider's compliance with these rules.

(u) "Parent" means an individual who has a birth, adoptive, or step-parent relationship to the child(ren), a foster parent as defined in (l) above, a legal guardian as defined in (o) above, or a caretaker relative as defined in (b) above.

(v) "Preventive Child Care" means a DCYF funded program authorized by the comprehensive family support agencies to prevent child abuse or neglect, and to give the parent an opportunity to participate in programs designed to teach positive parenting skills and address concerns that could lead to child abuse or neglect.

(w) "Protective child care" means a DCYF funded program through which parents may access child care through a founded case in order to assist the parent in securing or maintaining employment, or to relieve parents of continuous child care and provide an opportunity to attend a program to correct the concerns that lead to abuse or neglect while there is an open assessment or case through DCYF.

(x) "Provider" means an individual or a public or private organization supplying child care services to the family and requesting enrollment for financial reimbursement from DHHS.

(y) "Serious injury" means any injury that occurs to a child while receiving child care services from a licensed or license-exempt child care provider that requires medical treatment by a physician or other health care professional, hospitalization, or CPR performed on the child while the child is in care.

He-C 6914.04 Provider Qualifications and Requirements for Enrollment.

(a) In order to be eligible to be enrolled, a child care provider shall meet the following qualifications:

- (1) Be 18 years of age or older;
- (2) Meet the definition of licensed pursuant to He-C 6910.03(ac) or the definition of license exempt pursuant to He-C 6910.03(ad);
- (3) Review and comply with the statutes regarding confidentiality, including RSA 169-B:35, RSA 169-C:25, RSA 169-D:25, RSA 170-B:23, RSA 170-C:14, and RSA 170-G:8-a;
- (4) For both the child care provider and his or her employees not have a conflict of interest, meaning any circumstance, situation, or financial interest which has the potential to cause a private interest to directly or indirectly affect, influence, or interfere with the performance of the provider or the employee's duties as a child care provider for DCYF;

- (5) Review the definition of serious injury He-C 6914:03(y) and report any serious injury or death that takes place in the child care setting during the child care provider's hours of operation according to He-C 6914.05(a)(4) and (5);
  - (6) Review and comply with the child abuse and neglect reporting requirements of RSA 169-C:29-31;
  - (7) Not be the parent of a child for whom he or she is providing care unless the child is receiving protective child care provided by a licensed foster parent as approved by a DCYF supervisor and in compliance with He-C 6918.04(g)(3);
  - (8) Not be a member of the same residence as the parent or child(ren) receiving child care scholarship unless the child is in foster care and receiving protective child care scholarship and pursuant to He-C 6918.04(g)(4) as approved by a DCYF supervisor, and where "residence" means a dwelling:
    - a. Which has a separate bathroom and kitchen;
    - b. Which has a separate entrance and mailing address; and
    - c. For which there are independent living expenses including one or more of the following:
      1. Electricity billing statement for the address identified in b. above;
      2. Gas or oil billing statement for the address identified in b. above; or
      3. A lease agreement stating that any of above costs are included in the payment of rent;
  - (9) If license-exempt shall:
    - (a) Meet the exemption criteria as specified in RSA 170-E:3, I (c) or (h) where child care is provided in a private home as a license-exempt family provider, or
    - (b) If a license-exempt center provider meet the exemption criteria specified in requirement of RSA 170-E:3, I (a), (b), (f), or (g);
  - (10) Not have had any permit or license issued through DHHS's child care licensing unit revoked; and
  - (11) If licensed, have a valid New Hampshire child care license or valid permit to operate in accordance with He-C 4002, and be in good standing.
- (b) In addition to being qualified under He-C 6914.04(a) above, a child care provider seeking to be enrolled shall submit to DHHS the following documentation for each child care location:
- (1) If a licensed child care provider, a copy of the provider's current child care license issued by DHHS's child care licensing unit, "State of NH Alternate W-9 Form, Form 1862 "Child Care Provider Enrollment (February 2017) and Form 1860 "Child Care Provider Agreement (February 2017);



- (2) If a license-exempt family child care provider, a completed, signed and notarized Form 2503 “DCYF Central Registry Name Search Authorization” (February 2017), Form 2505 “A Background Check Information and Authorization” (February 2017), “State of NH Alternate W-9 Form, Form 1862 “Child Care Provider Enrollment (February 2017) and Form 1860 “Child Care Provider Agreement (February 2017) once every 3 years; or
  - (3) If a license-exempt center child care provider as defined in RSA 170-E:3, I(a), (b), (f), and (g) a completed, signed and notarized Form 2503 “DCYF Central Registry Name Search Authorization” (February 2017), Form 2505 “A Background Check Information and Authorization” (February 2017), Alternate W-9 Form, Form 1862 “Child Care Provider Enrollment (February 2017) and Form 1860 “Child Care Provider Agreement (February 2017) once every 3 years.
- (c) All license-exempt child care providers shall submit, at the time of the live scan fingerprint appointment, notarized Form DSSP372 “New Hampshire Health and Human Services Criminal History Record Information Authorization” (February 2017) once every 5 years authorizing DCYF to receive fingerprint and criminal background checks for the provider and all household members or employees as identified in He-C 6920.04(a):
- (1) For a license-exempt family provider, the child care provider and all household members when child care is provided in the child care provider’s own home;
  - (2) For a license-exempt family provider, the child care provider only, when child care is provided in the child’s own home; or
  - (3) For license-exempt center child providers, the provider and all employees.
- (d) For all child care providers and employees, proof must be submitted according to (h) below that the provider and all employees have completed a minimum of 6 hours of training in all required health and safety topics listed in (d) (1)-(11) below:
- (1) Prevention and control of infectious diseases;
  - (2) Prevention of sudden infant death syndrome and use of safe sleeping practices;
  - (3) Administration of medication, consistent with standards for parental consent;
  - (4) Prevention of and response to emergencies due to food and allergic reactions;
  - (5) Building and physical premises safety, including identification of and protection from hazards that can cause bodily injury such as electrical hazards, bodies of water, and vehicular traffic;
  - (6) Prevention of shaken baby syndrome and abusive head trauma;
  - (7) Recognizing and reporting child abuse and neglect;
  - (8) Emergency preparedness and response planning for emergencies resulting from a natural disaster, or a man-caused event such as violence at a child care facility within the meaning of those terms set forth in section 602(a)(1) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 USC 5195a(a)(1));

(9) Handling and storage of hazardous materials and the appropriate disposal of biocontaminants;

(10) For providers offering transportation, appropriate precautions in transporting children;

(11) Child development birth through 12 years.

(e) All child care providers and employees shall submit proof to DHHS that the provider and all employees have current certification in:

(1) Infant and child cardiopulmonary resuscitation (CPR) which shall include instruction in CPR and foreign body airway obstruction management for infants and children by the American Red Cross, American Heart Association, Emergency Care and Safety Institute, National Safety Council, or other nationally recognized organization; and

(2) Infant and child first aid.

(f) The provider and all employees shall obtain documentation of successful completion of the training in (d) above that includes the following:

(1) The title of the training completed;

(2) The name of the organization offering the training;

(3) The name of the trainer, if applicable;

(4) The name of the employee completing the training;

(5) The date on which the training was completed; and

(6) The duration of the training.

(g) License-exempt child care providers shall create an account in the “NH Professional Registry” at: <https://nhportal.naccrraware.net/nh/>;

(h) License-exempt child care providers shall upload documentation in (f) above to the “NH Professional Registry” located at: <https://nhportal.naccrraware.net/nh/>;

(i) All currently enrolled child care providers and employees shall complete the required health and safety training and certification in (d) and (e) above by September 30, 2017;

(j) All license-exempt child care providers, after September 30, 2017, shall complete the required health and safety training and certification in (d) and (e) as follows:

(1) All newly enrolling license-exempt child care providers and employees shall complete required training prior to enrollment;

(2) All new employees of a currently enrolled license-exempt center provider shall complete the required training within 90 days from the start of employment; and

(3) All new employees of a currently enrolled license-exempt center child care provider initially hired for 4 months or less or hired in a license-exempt center offering child care services for 4 months or less such as a summer or recreational program, shall complete the required training within 2 weeks of the start of employment.

(k) License-exempt child care providers and employees, as of September 30, 2017, in addition to completing the training listed in (d) above, shall complete 3 hours annually of on-going professional development training in the topics as listed in He-C 6914.

(l) The child care provider's enrollment process shall begin on the date DCYF receives the first of the forms listed in (b) above.

(1) A new enrollment process must be initiated by the child care provider if all forms and required documentation in (a)-(h) above are not submitted within 90 days of receipt of the first form.

(2) A new enrollment must be initiated following a denial.

(m) The child care provider shall submit the applicable forms listed in (b) above either:

(1) Electronically through N-form, if available at <https://business.nh.gov/bos/default.aspx>; or

(2) By mail to:

Department of Health and Human Services  
Child Development Bureau  
129 Pleasant Street  
Concord, NH 03301

(n) All forms and documentation applicable to the child care provider shall be submitted according to Table 6914.1 below.

(o) DHHS shall review all background checks received for child care providers, employees and household members. If a criminal background check shows the existence of a finding or a conviction then DHHS shall conduct an investigation pursuant to He-C 6920.07 to determine whether the individual poses a threat to the safety of children pursuant to RSA 170-E:7 and whether the enrollment should be denied.

(p) The forms and documents in (n) above and the results of the background determination in (o) above shall be reviewed by DHHS to determine whether the provider meets all of the qualifications and requirements for enrollment under He-C 6914.

(q) The enrollment process shall be complete as of the date DHHS makes the determination in (q) above and sends the written notification of the provider's approval or denial of enrollment. A child care provider shall not be eligible to receive payment prior to the date indicated in the written notification.

(r) If approved, enrollment shall continue for a period of 3 years from the date on the written verification.

**Table 6914.1**

### Forms and Documentation Required for Enrollment

Form or Document	Employment Related Child Care		Preventive and Protective Child Care	
	Licensed	License-Exempt	Licensed	License-Exempt
Copy of current N.H. child care license	X		X	
Form 1860 “Child Care Provider Agreement”(February 2017)	X	X	X	X
Form 1862 “Child Care Provider Enrollment Form” (February 2017)	X	X	X	X
“State of NH Alternate W-9 Form” (February 2017)	X	X	X	X
“Form 2503 DCYF Central Registry Name Search Authorization” (February 2017)	*	X	*	X
Form 2505 “Background Check Information and Authorization” (February 2017)	*	X	*	X
DSS P372 “NH Health and Human Services Criminal History Record Information Authorization” (October 2016)	*	X	*	X
Health and Safety Training Documentation	*	X	*	X
First Aid Certification for Infant and Child	*	X	*	X
Infant and Child CPR Certification	*	X	*	X

**\* For licensed child care providers, these forms and documents are required and completed during the licensing process and do not need to be duplicated during enrollment.**

(s) DHHS shall assign an enrolled child care provider a unique resource identification number for each child care location to be used for child care scholarship payment.

(t) An enrolled child care provider shall notify DHHS in writing within 10 calendar days of any change in the information provided on the enrollment forms, background check or criminal history record information provided in Table 6914.1, except as stated in (z) below.

(u) A child care provider who has changed or obtained a new tax identification number shall report the new tax identification number to DHHS as required in (s) above; and submit a copy of the Form 1862, "Child Care Provider Enrollment Form" (February 2017) and State of New Hampshire Alt W-9 Form;

(v) After DHHS receives the information and forms documenting a change as required in (t) and (u) above, DHHS shall assign the provider a new resource identification number.

(w) If a child care provider has had his or her child care license under He-C 4002 denied, or suspended, then DHHS shall review the documentation from the DHHS child care licensing unit of the license denial or suspension, to determine if the child care provider meets the qualifications of a license-exempt provider in accordance with He-C 6914 and RSA 170-E:12.

(x) An enrolled child care provider shall be a vendor of child care services and shall not be considered an employee of DHHS.

(y) All enrolled child care providers of child care scholarship shall notify DHHS within 2 calendar days if the location of child care services changes.

(z) If a license-exempt child care provider changes the location of child care services from the child's own home, to the provider's private home, DHHS shall not make payment until background checks required by He-C 6920.04 are completed and received for all household members.

#### He-C 6914.05 Maintaining Enrollment.

(a) In order to maintain enrollment license-exempt child care providers shall be qualified as stated in He-C 6914.04(a) and comply with all the requirements of enrollment in He-C 6914; and shall:

(1) Complete a minimum of 2 hours of annual professional development in at least one of the training topics listed below:

- a. Child development;
- b. Health and safety or fire safety;
- c. Caring for children with exceptionalities;
- d. Nutrition;
- e. Any child care related courses sponsored or funded by the department;
- f. Indoor and outdoor learning environments;
- g. Behavior guidance;
- h. Leadership, child care administration, or mentoring;
- i. Financial management;
- j. Working with families;

k. Legal issues in child care; and

l. Child abuse and neglect.

(2) Complete a minimum of 2 hours of professional development in any of the health and safety topics listed in He-C 6914.04(d)(1)-(11).

(3) Complete and maintain current first aid and CPR certifications as required by He-C 6914.04(e).

(3) In the event of a serious injury a provider shall:

a. Notify the parents immediately;

b. Notify the department within 48 hours; and

c. Provide a written report of the nature and circumstances of the serious injury to DHHS within 7 days.

(4) If a child dies while in the care of a license exempt child care provider, the provider shall:

a. Notify emergency personnel and the child's parent(s) immediately;

b. Notify the department of the death within 24 hours; and

c. Provide the department with a written report detailing the circumstances which lead up to the death within 72 hours.

(5) In addition to the reporting requirements in (3) and (4) above, the license-exempt child care provider shall upon request provide the Department with any other available information regarding the serious injury or death.

(b) In order to maintain enrollment licensed child care providers shall be qualified to receive child care scholarship, as described in He-C 6914.04(a), and comply with all requirements of enrollment in He-C 6914; and shall:

(1) Maintain a current New Hampshire child care license; and

(2) Provide DHHS with a copy of any new or renewed child care license issued within 10 days of issuance or receipt.

#### He-C 6914.06 Renewal of Enrollment.

(a) Enrolled child care providers shall renew their enrollment every 3 years by submitting to DHHS the completed, dated, and signed forms and documents listed below:

(b) For licensed providers:

(1) A copy of any new or renewed child care license issued within 10 days of issuance or receipt; and

(2) Form 1860, “Child Care Provider Agreement” (February 2017) as listed in Table 6914.1.

(c) For license-exempt providers provide DHHS with:

(1) A Form 2503 “DCYF Central Registry Name Search Authorization” (February 2017) for the child care provider, all employees, or household members in accordance with He-C 6920;

(2) An updated Form 2505 “Background Check Information and Authorization” (February 2017); and

(3) A Form 1860 “Child Care Provider Agreement” (February 2017).

(d) Renewal of enrollment shall remain open until all required forms, records and checks are received by DHHS if the child care provider submitted all of the required forms on or before the enrollment end date.

(e) Renewal of enrollment shall close if all required forms are not received by DHHS prior to the enrollment end date.

(f) Renewal of enrollment shall be completed as of the date DHHS makes the determination and sends written notification of the provider’s approval of re-enrollment.

He-C 6914.07 Access to Child Care Settings.

(a) An enrolled child care provider shall allow a parent access to his or her child(ren) at all times while the child(ren) is in the child care provider’s care, unless allowing access is contrary to a court order.

(b) An enrolled child care provider shall upon request, share information about a child’s needs and progress with the parent or authorized DHHS staff, unless sharing information with the parent is contrary to a court order.

(c) An enrolled child care provider shall allow authorized DHHS staff to visit, during the time a child receives child care, to observe the child to ensure the health and safety of the child in the child care setting.

(d) An enrolled child care provider shall allow authorized DHHS staff to visit during operating hours when DCYF has received a complaint about a child’s health and safety in the child care setting.

He-C 6914.08 Denial, Disqualification and Termination of Providers.

(a) Enrollment of licensed and license-exempt child care providers shall be denied enrollment or re-enrollment if:

(1) A license-exempt child care provider fails to meet all the applicable requirements of He-C 6914.04, He-C 6914.06 and He-C 6920; or

(2) A licensed child care provider fails to meet all of the applicable requirements of He-C 6914 and He-C 6914.06;

(3) A child care provider fails to comply with He-C 6914.04(i) and He-C 6914.06(d)-(f).

(b) Enrollment of licensed and license-exempt child care providers shall be terminated if:

- (1) The child care provider requests to have his or her enrollment terminated; or
- (2) An enrolled child care provider is not providing child care and has not received child care payment from DHHS for the previous 12 consecutive months.

(c) Licensed and license-exempt child care providers shall be disqualified from enrollment if:

- (1) The enrolled child care scholarship provider is convicted of fraud by the court pursuant to RSA 167:17-b;
- (2) The enrolled child care scholarship provider does not meet the criteria in (c)(1) above, but has been found to have committed fraud by an investigation conducted by DHHS pursuant to RSA 161:2, XV;
- (3) DHHS determines that the health or safety of a child is endangered as a result of:
  - a. The licensed child care provider's care, as described in RSA 170-E:4, II, RSA 170-E:7, He-C 4002.09(j)(2)-(4); or
  - b. The license-exempt child care provider's care as described in RSA 170-E:4, II and the provider fails to comply with the requirements of He-C 6920.08, and RSA 170:3-a ;
- (4) The child care provider is licensed, and the child care license or permit was denied or revoked prior to or during the enrollment period;
- (5) There has been a disciplinary action taken by a licensing body in any state;
- (6) The child care provider has provided false or misleading statements to DHHS relating to the requirements in He-C 6914;
- (7) At any time the child care provider has failed to disclose that any person in the household has been convicted of a crime identified by the background checks or found to have committed child abuse or neglect pursuant to RSA 169-C; or He-C 4002.09 and He-C 6920.04;
- (8) The child care provider has provided false or misleading billing documentation, as required by He-C 6920; or
- (9) The child care provider has failed to comply with any of the elements of the provider agreement Form 1860, "Child Care Provider Agreement" (February 2017) as required by He-C 6914.04.

(d) The child care provider shall be disqualified immediately from enrollment and receive no state funds under the child care scholarship program for a period of not less than 5 years, if any of the following have occurred:

- (1) The child care provider has committed fraud, as defined in He-C 6914.03(n) in any program administered by DHHS;



- (2) The child care provider has not been convicted of fraud, but DHHS has found the provider has misrepresented information, or made repeated billing errors and failed to comply with any corrective action relating to the billing errors;
  - (3) The child care provider has had his or her child care license or permit revoked pursuant to RSA 170-E:12, V;
  - (4) After an investigation by DHHS pursuant to He-C 6920.07, the provider has been found to be in violation of RSA 170-E:12, V;
  - (5) The child care provider has billed for child care services provided by another provider or person; or
  - (6) The child care provider has billed for child care services while not in compliance with child care licensing requirements of He-C 4002.
- (e) The opportunity for informal dispute resolution described by He-C 4002.11 shall not apply to any provider who has been disqualified due to fraud as described in (c) above.
- (f) The child care provider who has been disqualified in accordance with (d) above shall be sent a written letter from DHHS regarding the disqualification as follows:
- (1) The letter shall be sent via certified mail to the provider informing him or her of the date of the disqualification;
  - (2) The letter shall include the reason(s) for the disqualification; and
  - (3) The letter shall include information about the provider's right to appeal the disqualification in accordance with He-C 200.
- (g) DHHS shall notify by mail any parent, comprehensive family support agency, or CPSW who is utilizing a provider authorized for payment for child care services pursuant to He-C 6912 and He-C 6910 who has been disqualified by DHHS that:
- (1) The child care provider fails to meet the minimum requirements to be enrolled as a child care provider;
  - (2) Payment to the child care provider shall be denied;
  - (3) The information obtained by DHHS from or about the child care provider is confidential and shall not be made available for a parent's review; and
  - (4) Other child care arrangements may be made by contacting a child care resource and referral agency.

He-C 6914.09 Appeals.

- (a) A child care provider may appeal a decision made by DHHS within 30 calendar days of the receipt of the notification when:
- (1) The application for enrollment has been denied;

- (2) Payments have been withheld;
- (3) Enrollment has been terminated or not renewed; or
- (4) The child care provider has been disqualified.

(b) The request for an appeal shall be made in accordance with He-C 200.

(c) If the child care provider files an appeal in accordance with He-C 200 within 15 calendar days from the date on the notification and requests continuation of a child care scholarship, then a child care scholarship shall continue at the established payment rate.

(d) If the child care provider opted to continue to receive child care scholarship payment during an appeal, and the decision is upheld by the hearings officer, the provider shall repay to DHHS any payment made after the effective date on the letter notifying the provider of his or her non-renewal or termination.

(e) If the hearings officer finds in favor of the child care provider, then the non-renewal or termination shall not take effect.

#### APPENDIX

<u>RULE</u>	<u>STATUTE TO BE IMPLEMENTED</u>
He-C 6314.01	RSA 161:2, XII; RSA 170-E:11; RSA 170-G:4, XVIII; and RSA 170-G:5
He-C 6314.02	RSA 161:2, XII; RSA 167:83, II(o); RSA 170-E:11; RSA 170-G:4, XVIII; and RSA 170-G:5
He-C 6314.03	RSA 161:2, XII; RSA 167:58, IV; RSA 170-G:4, XVIII; RSA 170-G:5
He-C 6314.04	RSA 161:2, XII ; RSA 167:83, II(o); RSA 170-E:3-a; RSA 170-E:4, II; RSA 170-E:7; RSA 170-E:11; RSA 170-E:12; RSA 170-G:4, XVIII; RSA 170-G:5
He-C 6314.05	RSA 161:2, XII ; RSA 167:83, II(o); RSA 170-E:3-a; RSA 170-E:4, II; RSA 170-E:7; RSA 170-E:11; RSA 170-E:12; RSA 170-G:4, XVIII; RSA 170-G:5
He-C 6314.06	RSA 170-E:11; RSA 170-G:4, XVIII; and RSA 170-G:5
He-C 6314.07	RSA 161:2, XV; RSA 167:17-b, I(a); RSA 167:17-c; RSA 167:58, IV; RSA 167:61-a, I(a)-(c) and (e); RSA 167:83, II(k); RSA 170-E:7; RSA 170-E:11; RSA 170-E:12; RSA 170-G:4, XVIII; and RSA 170-G:5
He-C 6314.08	RSA 167:83, II(a); RSA 170-E:11; RSA 170-G:4, VIII; RSA 170-G:4, XVIII; RSA 170-G:5; and RSA 541-A:31, I and II
He-C 6314.09	RSA 167:83, II(a)